

## **DETAILED ACTION**

### **Status of the Claims**

1. Claims 11-13 are pending.

Applicants' amendment filed January 13, 2011 is acknowledged. Applicants' response has been fully considered. Claims 11-13 have been amended, and claims 1-8 and 14-22 have been cancelled. Therefore, claims 11-13 are examined.

### **Sequence Listing**

2. A new version of Sequence Listing filed January 13, 2011 is acknowledged. This new Sequence Listing is to correct an error found in SEQ ID NOs:1 and 2 (the correct one is shown in Fig. 3). CRF has been entered.

### **Withdrawn Claim Rejections - 35 USC § 112**

3. The previous rejection of claims 8 and 11-13 under 35 U.S.C. 112, first paragraph, written description, is withdrawn in view of applicants' amendment to the claims, applicants' cancellation of the claims and applicants' response at pages 6-7 in the amendment filed January 13, 2011.

### **Withdrawn Claim Rejections - 35 USC § 102**

4. The previous rejection of claim 11 under 35 U.S.C. 102(e) as being anticipated by Almond et al. (U.S. Pub. No. 2003/0157643 A1) is withdrawn in view of applicants' amendment to the claims, and applicant's response at pages 7-8 in the amendment filed January 13, 2011.

**The following is an Examiner's Statement of Reasons for Allowance:** The following reference is related to the claimed invention. Almond et al. (U.S. Pub. No. 2003/0157643) teaches a synthetic nucleic acid molecule comprising a nucleotide sequence that encodes a fluorescent protein, e.g., the DNA sequence of SEQ ID NO:21 encoding a humanized green

fluorescent protein (Figs 2A-2B; paragraph [0029]). The nucleotide sequence of SEQ ID NO:21 has sequence identity of 81.3%, 80.8%, 79.9% and 79.9%, respectively, to the nucleotide sequence of instant SEQ ID NO:13, 15, 17 and 19, respectively. However, Almond et al. do not teach the nucleotide sequence of instant SEQ ID NO:2, 13, 15, 17, 19 or 21, or the nucleotide sequence of SEQ ID NO:2 with 1-60 nucleotide substitutions (at least 91.2 % sequence identity to SEQ ID NO:2) and encoding a fluorescent protein. Therefore, the claims are allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath Rao can be reached at 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Chih-Min Kam/

Primary Examiner, Art Unit 1656

CMK

January 24, 2011